Present

App. F. IX-4

1933
(Mysore)

File No. 231 33
Serial Nos. 1 - 2

Previous References
Mis 190 32 1 J
Rev 336 23 1 4
Rev 342 31 1 J
Later References.
Mis 237-34-1-2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for May 34

SUBJECT.

New application for a recommendation on the appeal for the archakship of the Malur Agrahar Sri Kanneya Swami Temple Malur

M. A Subba Rao
Pensioner & Jodidar
No. 138 Second cross road
Chamaraja pet Bangalore

WD 01965—GPB—15,000—7-7-31

1 20 1 26 4 - 34

Mis file to be destroyed

Mis Rev 207 for a reconsideration of decision in Appl no 17 of 32-33 Re: Arcotsuit right in Halur Agrahar of Anjaneya temple.

General and Revenue Secretariat — Mis File No. 23 of 1932. — Appendix III

Serial No.

Petition of nil Cash received in the Office of the Financial Secretary on 26/3/33 from Mr. M. R. Subba Rao, Pensioner and Jagirdar, no 138. 11 Cross Road. Chamaraj Bangalore city praying for a reconsideration of orders passed in Mis Appl 17 of 32-33 Re: his right to a share in the Arcotsuit of Sri Agrahar Anjaneya Swamis temple Halur.

Orders in the Mis Appl 17 of 32-33 were passed on 16/12/32 & the petition has been presented three months after. If it were not been the case, as orders were passed in the lower Court before the case. In that case, Mis Appl Case preferred here was heard before First Member of Council & orders were passed before & it is for a reconsideration of those orders the present petition has been preferred. The petn has already been heard once & it is stated that the present petn is belated. Further no fresh points have been urged in the case for reconsideration. The

The grounds now urged, are mostly those which have been urged even before the Mg. or the Govt. The case is one disposed of by the II Member when he was Mg. and by the I Member recently. The

NOTE—Contn. Sheet

WD 0434—GPB—15,000—12-10-33

2)

File No. 231 of 1933

General and Revenue Secretariat

Serial No.

Case does not seem to require reconsideration. The Revision application may perhaps be rejected

11/4/34

JH Leary)
2nd Mr)

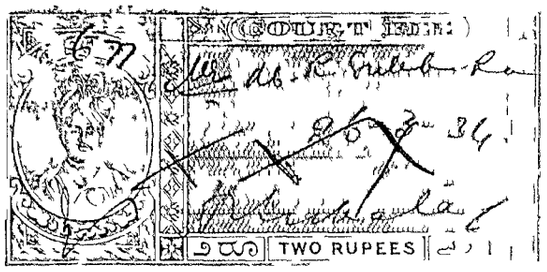
SECOND McMB I OF GOU C'L.
12 APR. 1934
No 6540

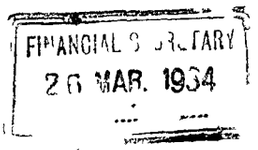
2

No 1420 of 26/4/34 to Mr. T. R. Subba Rao Pensioner and Joridar - Second Cross Road Shamarajpet Bangalore City - rejecting his review petition —

No 1421 of 26/4/34 to the Mysore Commissioner forwarding copy of the above Endorsement

4.5.34





BEFORE THE GOVERNMENT OF HIS HIGHNESS THE

MAHARAJA OF MYSORE.

MUZARAI APPEAL NO. 17 of 1932 - 33.

APPELLANT.	RESPONDENT.
M.A. Subba Rao. Pensioner & Jodidar, No. 138 II Cross Road. Chamarajapet, Bangaloro City.	Mulya Naranamurthyachar, M a l u r.

Government Order dated 18-12-1933 dismissing the appeal petition submitted by the Appellant in the above case:-

The Appellant prays that the circumstances and reasons set forth below may be graciously considered and the orders now passed may be reviewed and revised on the grounds submitted by him:-

The application has been dismissed on the sole ground that the appellant's uncle Mr. Krishna Char had no right to bequeath by Will his half share of the Archakship of Sri Anjaneyaswami at Malur during the alternate years from March to March.

1. The Appellant begs to state that he has sufficiently answered this point in his memos submitted on 10th June 1933 and 7th December 1933. The authorities and precedents of decisions arrived at both by the Mysore Government and Bombay High Court have not been taken into consideration in the light they deserved while passing the above order.

order.

2. The appellant's uncle has neither ignored nor usurped the inherent powers and prerogatives of Government by mentioning his fond and sincere hope in his Will to the effect that the appellant who happens to be his sister's son should make necessary arrangements for the conduct of worshipping the deity by formally approaching, of course, the higher officers whenever necessary as he appointed the appellant as his legal representative and successor by means of a duly registered Will.

3. The order states that the Muzarai Commissioner appointed the respondent to do the duties of krishnachar's share also and that this was upheld by the Deputy Commissioner also. In this connection the appellant begs to invite - - attention to Sec. 35 of the Muzarai Regulation of 1927 wherein it is said that "Where there is no claimant entitled to succeed to the office of a Pujari or other office in a Muzarai Institution, the Muzarai Officer may appoint any other person competent for such office." In this case the Archakship was originally granted in the name of four brothers, Bhimachar, Venkannachar Madhavachar and Narahari Achar individually, who were divided in interest. On the death of Bhimachar his son Krishnachar succeeded to the office and as Krishna Char was left issueless, he nominated his nephew, the appellant as his legal representative and successor as he - - - (appellant) was in the line of succession and not in any way disqualified to continue the duties.

duties. Such nomination finds support under the provisions of Hindu Law and custom, as commented by eminent legal experts like Sir Hari Singh Gour, Doctor D.F. Mulla and Sir Mayne. The appellant has cited the particular articles from their books in his memo submitted on 7-12-1933. He has even cited therein, an appropriately parallel decision of the Bombay High Court.

4. The appellant's uncle Krishna Char did not include in his Will this item of Archikship as a matter of 'right' as opined in the order. He did so as a matter of Custom or usage which he happened to observe during his life time and which received recognition at the hands of responsible officers an even Government. The appellant has cited in his memo of 7th December 1933, cited above a few Government orders in support of his statement. Indeed Sir D.F. Mulla M.A., LL.B., has, in Sec. 15 and 18 of his principles of Hindu Law, IV Edition 1924 has laid stress regarding 'Usage' or 'Custom' thus:- "Sec.15 under the Hindu System of Law, clear proof of usage will outweigh the written text of the law. Sec.18. Local Custom which is the 'lex Loci' is binding on all persons within the Local limits in which it prevails."

5. A gravious perusal of the Will written by the testator Krishnachar will show how much pained he was at the treatment he experienced from the respondent and his forefathers and with what affection and gratitude he appointed his sister's son as his successor and legal representative. Dewan Bahadur Rajadharma Pravina K.S. Chandrasekhara Iyer, B.A., B.L., while discussing question of revocation of

a certain Will in a Regular appeal case No. 101 of 1923-1925 on 5th March 1924 has been pleased to hold that 'where there is no specific rule applicable to the question under consideration, we are bound to decide it in accordance with justice, equity and good conscience, and we feel that we ~~should~~ shall not be doing so, if we treated it, as we are invited to do, as a mere matter of form', 1 (1921).63 I.C.483, 2(1920) 26 M.C.C.R.5.

6. The appellant's maternal grand father was the original grantee of the office of Archikship. He was divided in interest from his younger brothers. On the death of his son Krishnachar, who died issueless, the appellant as his Douhitra and a heritable Bandhu takes per capita. The ~~High Court~~ Government of Mysore while dealing with a Revenue Revision petition No. 78 of 23-24 have decided in their order No..R.2494/L.R.336-23-4 dated 2-10-24 that the daughter's son becomes the heir to the deceased Hakdar when the latter is divided in -- interest from his brothers and other co-parceners. Thus the daughter's son is given preference to ~~male~~ male agnates. This is in the case of disposal of a Shanbhogi office.

-7. The appellant has duly obtained a probate of the Will and he has been unable to undertake proceedings with a view to derive full benefit of it, until he obtains favourable orders through the Muzarai (Revenue) side also.

8. Krishnachar, the testator and his father Bhimachar have all along been contributing a sum of Rs. 5/- and odd from the Revenues of their private property Jodi Village of Sonnappanahatti towards

the

the cash grant of Rs.10-15-0 that is being paid to them by Government as is evidenced in the Inam Register of Sonnappanahatti Jodi Village and Cash grant. As such Krishnachar has had special privilege in appointing his own successor to the office of Archikship also, of course during his turn.

9. Under the circumstances detailed above and in his three appeal petitions submitted from time to time, the appellant prays that the orders now passed may graciously be revised and sanction accorded to the appellant to succeed as the representative of Bhimachar's line to his half share of Puja Hak.

10 The appellant is prepared to engage a Counsel with a view to elucidate further points in his favour, if your Honour is pleased to grant an opportunity for argument in behalf of his case.

M.R. [illegible]

APPELLANT.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 24th April
26th

No. ~~Ft.~~ 1420
Muz 231-33-2

ENDORSEMENT.

Mr. M.F. Subba Rao,
pensioner and Joshier,
No. 139, Second Cross Road,
Chamarajpet, Bangalore City.

With reference to his petition received on 16th March 1934, praying for a re-consideration of the orders passed in Muz. App. No. 17 of 1932-33 re. his claim to the Archakship in Sri Agrahar Anjaneyaswami temple, Malur, Mr. M.R. Subba Rao is informed that Government see no reason to reconsider the orders passed and that his review petition is rejected.

By Order,

Sd/- S. Shamanna,

Financial Secretary to Government.

Memo No. 1421 Muz Bangalore, dated the 24th 26th April 1934.

Copy of the above is forwarded with compliments to the Muzrai Commissioner in Mysore, in continuation of this office Memo No. 841/Muz. 190-32-5, dated 13th December 1933.

By Order,

For Financial Secretary to Government

TRM.4

Appendix F G—1]

SUBJECT .....

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Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 26-4-34

Signed by W. B. Muddukrishnappa

List of enclosures .....

Copied by .....

Examined by .....

Section Mu 3

File No. 231-33

Serial No. 2

No. 1420

To

J. Subba Rao

Pensioner & Landholder

No 138. 11th Cross Road

Chamarajpet.

Bangalore City

With reference to your letter dated ~~[illegible]~~ received on 26th March 1934 praying for a reconsideration of the orders passed in this office No 17 of 1932-33 re: his claim to the charities in Sri Agrahara Anjaneya Swamy Temple Malur

W. B. Muddukrishnappa

informed that Gore see no
reason to reconsider the
cross already pursued ~~in this~~
~~subject~~ this review fee
is ~~therefore~~ rejected

B. O

2/VII/4

Acting for Hsee

Copy to M.C. in continuation
of this office memo no 8 ✓
Hug 190-32-5 dy 18/12/33.

B. O

2/VII/4
for Hsee

GS
23/4